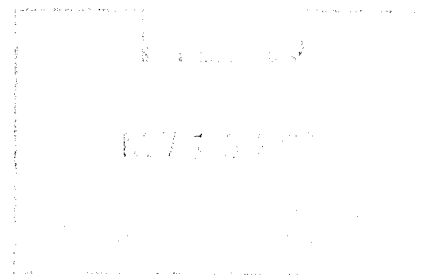


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 7 UNITED STATES OF AMERICA



8
 9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

07cr 3129-WQH

11 UNITED STATES OF AMERICA,

Magistrate Case No. 07MJ2501

12 Plaintiff,

13 v.

**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

14 MARIA DOLORES RAMIREZ-LINAN,

15 Defendant.

(Pre-Indictment Fast-Track Program)

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and David D.
 18 Leshner, Assistant United States Attorney, and defendant MARIA DOLORES RAMIREZ-LINAN,
 19 by and through and with the advice and consent of defense counsel, Norma Aguilar, Federal
 20 Defenders of San Diego, Inc., that:

21 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 25 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
 26 § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

27 //

28 DDL:rp:10/30/07

2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the Government not later than five business days before the disposition date set by the Court.

3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or before **November 19, 2007**.

4. The material witnesses, Gerardo Javier Flores-Ramirez, Antonia Espinoza-Bautista and Lizbeth Velasco-Guevara, in this case:

- a. Are aliens with no lawful right to enter or remain in the United States;
- b. Entered or attempted to enter the United States illegally on or about October 18, 2007;
- c. Were found in a vehicle driven by defendant at the San Ysidro, California Port of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful right to enter or remain in the United States;
- d. Were paying and or having others pay on their behalf unknown amounts- \$3,500 to others to be brought into the United States illegally and/or transported illegally to their destination therein; and,
- e. May be released and remanded immediately to the Department of Homeland Security for return to their country of origin.

5. After the material witnesses are ordered released by the Court pursuant to this stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

a. The stipulated facts set forth in paragraph 4 above shall be admitted as substantive evidence;

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
8 further that defendant has discussed the terms of this stipulation and joint motion with defense
9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
11 immediate release and remand of the above-named material witness(es) to the Department of
12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

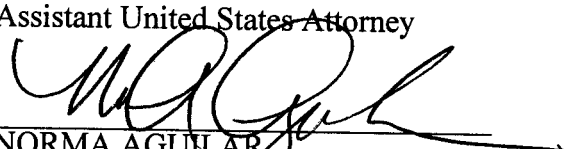
14 Respectfully submitted,

15 KAREN P. HEWITT
16 United States Attorney

17 Dated: 11/15/07.


18 DAVID D. LESHNER
19 Assistant United States Attorney

20 Dated: 11-14-07.


21 NORMA AGUILAR
22 Defense Counsel for Maria Dolores Ramirez-Linan

23 Dated: 11-14-07.


24 MARIA DOLORES RAMIREZ-LINAN
25 Defendant
26
27
28

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 11/15/07.

U. Martinez
United States Magistrate Judge